



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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Telephone (480) 551-2700 • Fax (480) 551-2704 • In-State Toll Free (877) 255-2212

FINAL MINUTES FOR TELECONFERENCE MEETING

Held at 12:00 Noon on May 12, 2004

9545 E. Doubletree Ranch Road - Scottsdale, Arizona

Board Members

Edward J. Schwager, M.D., Chair
Sharon B. Megdal, Ph.D., Vice Chair
Robert P. Goldfarb, M.D., Secretary
Patrick N. Connell, M.D.
Ronnie R. Cox, Ph.D.
Ingrid E. Haas, M.D.
Tim B. Hunter, M.D.
Becky Jordan
Ram R. Krishna, M.D.
Douglas D. Lee, M.D.
William R. Martin III, M.D.
Dona Pardo, Ph.D., R.N.

Board Counsel

Christine Cassetta, Assistant Attorney General

Staff

Barry A. Cassidy, Ph.D., P.A.-C, Executive Director
Barbara Kane, Assistant Director / Investigations & Quality Assurance
Beatriz Garcia Stamps, M.D., M.B.A., Board Medical Director
Gary Oglesby, Chief Information Officer
Tina Speight, Public Affairs Coordinator
Lisa McGrane, Legal and Communications Coordinator

CALL TO ORDER

Sharon Megdal, Ph.D., Vice Chair, called the meeting to order at 12:01 p.m.

ROLL CALL

The following Board members were present: Patrick Connell, M.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram Krishna, M.D., Douglas D. Lee, M.D., William Martin, III, M.D., Sharon Megdal, Ph.D., Dona Pardo, Ph.D., R.N., and Edward Schwager, M.D. The following Board member was absent from the meeting: Ronnie R. Cox, Ph.D.

CALL TO THE PUBLIC

Statements issued during the call to the public appear beneath the case referenced.

NON-TIME SPECIFIC ITEMS

Discussion and Approval of Off-Site Agenda

Christine Cassetta, Board Counsel, confirmed that "Review of Executive Director's Performance & Salary" had been added to the Off-Site Meeting Agenda. Edward Schwager, M.D., suggested the meeting begin at 9:00 a.m. instead of 9:30 a.m. William Martin, III, M.D., will not be able to participate in the Off-Site Meeting, but offered his assistance telephonically. Ms. Cassetta will be adding "Working with Court Reporters" to the agenda. Sharon Megdal, Ph.D., suggested adding the subject of cases that are considered emergencies and cases that are not. Dr. Schwager suggested adding a discussion regarding "Maintenance Competency and Licensure" as well as a discussion of the "Federation of State Medical Board's Model Medical Board Statutes" regarding false testimony offered by a physician as an expert in a civil case being considered an act of unprofessional conduct.

NON-TIME SPECIFIC ITEMS (Continued) – Discussion and Approval of Off-Site Agenda

MOTION: Patrick Connell, M.D., moved to approve the Off-Site Meeting Agenda with the changes and additions as stated above.

SECONDED: Ram Krishna, M.D.

VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent

MOTION PASSED.

Cosmetic Laser Usage

Tina Wilcox, Board Legislative Liaison, submitted a memo for the Board members review that gave them an overview of the past and current rules drafted by the Arizona Radiation Regulatory Agency (ARRA) regarding the use of medical lasers in Arizona. The memo stated that the Food and Drug Administration (FDA) requires that medical lasers be sold to licensed physicians, but it leaves the regulation of the operator to each state. The ARRA's past drafts of the proposed rules required indirect supervision by a licensed physician of a person operating a medical laser and included all cosmetic procedures, including hair removal. In 2002 Patrick N. Connell, M.D., then the Chairman of the Arizona Medical Board sent a letter to the ARRA stating that the Board's position was that the lasers should be used under prescription only with treatment performed either by the prescribing physician or by trained individuals under direct supervision of a physician. The ARRA's current draft has separated hair removal from all other cosmetic laser procedures and requires indirect supervision by a licensed practitioner of persons who will use the lasers for hair removal and direct supervision by a licensed practitioner for all other cosmetic procedures.

Ms. Wilcox reviewed her memo with the Board during the meeting. She requested that the Board reconsider their position and take a neutral position regarding the current proposed rules.

Ram Krishna, M.D., commented that hair removal would not need direct supervision and suggested that the Board take a neutral position. Patrick N. Connell, M.D. agreed.

MOTION: Ram Krishna, M.D., moved that the Board to take a neutral position on the rules proposed by the ARRA for Laser usage.

SECONDED: Patrick Connell, M.D.

VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent

Approval of Minutes

April 2, 2004 Special Teleconference Meeting

April 14-15, 2004 AMB Meeting, *including Executive Session Minutes*

April 15, 2004 Special Meeting

Dona Pardo, Ph.D., R.N., submitted corrections to the April 14-15, 2004, AMB Minutes to the following:

- Case number MD-02-0705A – remove “Tim Hunter, M.D. recused himself from this case.”
- Pages 6 through 11, and 23 – correct Dr. Pardo's first name from “Donna” to “Dona.”

MOTION: Ram Krishna, M.D., moved to approve the April 2, 2004, Special Teleconference Meeting; April 14-15, 2004, AMB Meeting, including Executive Session Minutes; and April 15, 2004, Special Meeting minutes, with the corrections as submitted above.

SECONDED: Dona Pardo, Ph.D., R.N.

VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	BOARD RESOLUTION
1.	MD-03-0782A	S.W. MURALI D. TALLURI, M.D.	19237	Proposed Consent Agreement rejected; return to the Board at the June 2004 Meeting for an Advisory Letter.

Patrick Connell, M.D., stated that a Letter of Reprimand is not warranted in this matter. He would support an Advisory Letter. Edward J. Schwager, M.D., stated that the physician agreed with the Consent Agreement. He stated that by signing the Consent Agreement, Dr. Talluri accepted the disciplinary action. Dr. Krishna suggested that maybe this physician did not understand what he was signing.

MOTION: Tim B. Hunter, M.D., moved to reject the Proposed Consent Agreement and return this matter to the Board at the June 2004 Meeting for an Advisory Letter.

SECONDED: Patrick Connell, M.D.

VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent

NON-TIME SPECIFIC ITEMS (Continued)

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
2.	MD-99-0640	AMB	JOHN P. UTZ, M.D.	7372	Rescind Referral to Formal Hearing, Accept Consent Agreement for Surrender of License.

Robert P. Goldfarb, M.D., stated that he has knows John P. Utz, M.D., but this will not affect his ability to adjudicate this case. Douglas D. Lee, M.D., stated that the spelling of vicodin on page 6, line number 10, needs to be corrected.

MOTION: Patrick Connell, M.D., moved to rescind the referral to Formal Hearing and accept the Proposed Consent Agreement with the correction as stated above.

SECONDED: Ram Krishna, M.D.

ROLL CALL VOTE was taken and the following Board members voted in favor of the motion: Patrick Connell, M.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram Krishna, M.D., Douglas D. Lee, M.D., William Martin, III, M.D., Sharon Megdal, Ph.D., Dona Pardo, Ph.D., R.N., and Edward Schwager, M.D. The following Board member was absent from the meeting: Ronnie R. Cox, Ph.D.

VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
3.	MD-00-0370	J.S.	BRUCE C. HUNTER, M.D.	24075	This matter was tabled until the June 2004 Meeting.

Edward Schwager, M.D., stated that Bruce C. Hunter, M.D., requested early termination of his Probation because of a job opportunity. Board staff recommended termination of Dr. Hunter's Board Order because of his compliance with the Order's terms. Patrick Connell, M.D., recalled that this was a complex case with fairly significant deviations from the standard of care. Sharon Megdal, Ph.D., and Dr. Connell expressed concern over the terms of Dr. Hunter's Probation and questioned if termination would be appropriate at this time. Christine Cassetta, Board Counsel, reviewed the terms of Dr. Hunter's Board Order that was issued on March 6, 2002, specifically his Probationary terms. Dr. Hunter was issued a Decree of Censure, Stayed Revocation, and Probation for 5 years. The Board amended this Order at the June 2003 Board meeting allowing Dr. Hunter to prescribe, administer, and dispense Schedules II and III controlled substances. Wendy Nicholson, Senior Compliance Officer, informed the Board members that Dr. Hunter is currently practicing in Utah. Ms. Nicholson also stated that Dr. Hunter has complied with all the terms of his Probation. Dr. Schwager pointed out that this physician has met the Continuing Medical Education (CME) requirements for prescribing as well as chronic pain management. Dr. Schwager agreed with Dr. Connell that this physician's previous actions were egregious. Douglas D. Lee, M.D., clarified that if the Probation were lifted there would be no restrictions on Dr. Hunter's license. Dr. Megdal stated that the Board has not established a policy pertaining to the lifting of the Probations. She would prefer to table this matter until after the Board meets at the Off-Site Meeting, where they will be discussing issues of Probation in general.

MOTION: Patrick Connell, M.D., moved to table this matter until the June 2004 Meeting until after the Probation issues are settled.

SECONDED: Ram Krishna, M.D.

VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
4.	MD-03-1119A	AMB	SHEL-DON LEGARRETA, M.D.	25100	Interim Consent Agreement for Practice Restriction dated March 10, 2004 vacated; Interim Consent Agreement for Participation in the Monitored Aftercare Program entered, Interim Consent Agreement terminates on the effective date of the Board's final Order; Interim Consent Agreement is subject to further consideration by the Board.

MOTION: Patrick Connell, M.D., moved to accept the proposed Consent Agreement as written.

SECONDED: William Martin, III, M.D.

ROLL CALL VOTE was taken and the following Board members voted in favor of the motion: Patrick Connell, M.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram Krishna, M.D., Douglas D. Lee, M.D., William Martin, III, M.D., Sharon Megdal, Ph.D., Dona Pardo, Ph.D., R.N., and Edward Schwager, M.D. The following Board member was absent from the meeting: Ronnie R. Cox, Ph.D.

VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent

NON-TIME SPECIFIC ITEMS (Continued)

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
5.	MD-04-0026A	AMB	JOHN W. HOWLEY, M.D.	22390	Interim Consent Agreement for Practice Restriction. Respondent shall not practice clinical medicine or any medicine involving direct patient care, and is prohibited from prescribing any form of treatment including prescription medications, until Respondent completes treatment and applies to the Board and received permission to do so; This is an Interim Order and not a final decision by the Board regarding the pending investigative files and as such is subject to modification and further consideration by the Board.

MOTION: Patrick Connell, M.D., moved to accept the proposed Consent Agreement as written.

SECONDED: Ram Krishna, M.D.

ROLL CALL VOTE was taken and the following Board members voted in favor of the motion: Patrick Connell, M.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram Krishna, M.D., William Martin, III, M.D., Sharon Megdal, Ph.D., Dona Pardo, Ph.D., R.N., Edward Schwager, M.D. The following Board member abstained the motion: Douglas D. Lee, M.D. The following Board member was absent from the meeting: Ronnie R. Cox, Ph.D.

VOTE: 10-yay, 0-nay, 1-abstain/recuse, 1-absent

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
6.	MD-04-0100A	AMB	MARK MOURITSEN, M.D.	28909	Interim Consent Agreement for Practice Restriction and In-Patient Treatment dated March 8, 2004 is vacated; Interim Consent Agreement for Participation in the Monitored Aftercare Program entered, Interim Consent Agreement terminates on the effective date of the Board's final Order; Interim Consent Agreement is subject to further consideration by the Board; Respondent shall not prescribe Schedule II controlled substances; Respondent shall practice in a group setting.

Kathleen Muller, Monitored Aftercare Program Coordinator, reviewed this matter with the Board. She stated that on January 22, 2004, the Board was informed by the Payson Police Department that Dr. Mouritsen had been arrested. He was charged with conspiracy to obtain narcotic drugs by fraud. Also, it was alleged that he was using the narcotics for his personal use and prescribing them to patients without a doctor-patient relationship. Dr. Mouritsen successfully completed inpatient treatment on March 23, 2004. He has also signed a consent agreement with Monitored Aftercare Program (MAP) terms. Christine Cassetta, Board Legal Counsel, stated to the Board members that this is an Interim Consent Agreement. The underlying case will be returning to the Board in the future.

MOTION: Patrick Connell, M.D., moved to accept the proposed Consent Agreement as written.

SECONDED: William Martin, III, M.D.

ROLL CALL VOTE was taken and the following Board members voted in favor of the motion: Patrick Connell, M.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, William Martin, III, M.D., Dona Pardo, Ph.D., R.N., and Edward Schwager, M.D. The following Board members abstained the motion: Ram Krishna, M.D., Sharon Megdal, Ph.D., and Douglas D. Lee, M.D. The following Board member was absent from the meeting: Ronnie R. Cox, Ph.D.

VOTE: 8-yay, 0-nay, 3-abstain/recuse, 1-absent

The meeting adjourned at 12:47 p.m.

[seal]

Barry A. Cassidy, Ph.D., P.A.-C, Executive Director